



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

APR 27 2009

David Browning

Oak Grove, MO 64075

RE: MUR 6072
Northland Regional Chamber
of Commerce; Saint Joseph Area
Chamber of Commerce; NPG
Newspapers, Inc.; Missouri
Western State University

Dear Mr. Browning:

On April 21, 2009, the Federal Election Commission ("the Commission") reviewed the allegations in your complaints dated September 11, 2008, and on the basis of the information provided in your complaint and information provided by the respondents, voted to exercise its prosecutorial discretion and dismiss this matter as to the Northland Regional Chamber of Commerce and the Saint Joseph Area Chamber of Commerce. *See Heckler v. Chaney*, 470 U.S. 821 (1985). The Commission also found there is no reason to believe that NPG Newspapers, Inc. and Missouri Western State University violated the Federal Election Campaign Act of 1971, as amended, or the Commission's regulations. Accordingly, on April 21, 2009, the Commission closed the file as to all respondents.

Documents related to the case will be placed on the public record within 30 days. *See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files*, 68 Fed. Reg. 70,426 (Dec. 18, 2003). The Factual and Legal Analyses, which more fully explain the Commission's findings, are enclosed.

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David Browning
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The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. Sec 2 U.S.C. § 437g(a)(8).

Sincerely,



Susan L. Lebeaux
Assistant General Counsel

Enclosures:
Factual and Legal Analyses

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1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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5 **RESPONDENT: Northland Regional Chamber of Commerce MUR: 6072**
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8 **I. INTRODUCTION**

9 This matter was generated by a complaint filed with the Federal Election Commission
10 ("Commission") by David R. Browning, the Libertarian nominee for Missouri's 6th Congressional
11 District. See 2 U.S.C. § 437g(a)(1). For the reasons set forth below, the Commission dismissed the
12 complaint's allegations as to Northland Regional Chamber of Commerce ("Northland") and closed the
13 file as to this respondent.

14 **II. DISCUSSION**

15 **A. Factual Summary**
16

17 Northland, a non-profit corporation, scheduled a candidate debate on October 21, 2008, in
18 which the participants invited to attend were the individuals who had won the Democratic and
19 Republican nominations in Missouri's August 5, 2008, primary election for the U.S. House of
20 Representatives in the State's 6th Congressional District. Prior to the scheduled debate, complainant,
21 who had won the Libertarian Party's primary election for Missouri's 6th Congressional District and
22 who was qualified to appear on the general election ballot, alleged in a complaint filed with the
23 Commission that Northland had improperly denied him the opportunity to participate in the debates by
24 failing to use pre-established, objective criteria, and by promoting certain candidates over others, in
25 violation of the Commission's debate staging regulation at 11 C.F.R. § 110.13.

26 Northland's response denies complainant's allegation, and states that it decided to choose the
27 two candidates who received the largest number of votes in the August 5, 2008, primary to participate
28 in its October 21, 2008, debate. Northland Response at 1. The Missouri Secretary of State's August
29 2008 Primary Results attached to the response show that the Republican and Democratic candidates

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1 who participated in Northland's debate received 36,131 and 36,712 votes, respectively, another
2 Democratic candidate received 6,714 votes, and the complainant received 225 votes. According to
3 Northland, its selection process did not involve any consideration of the candidate's viewpoints or their
4 respective political parties. Northland Response at 1-2.

5 Attached to its response is an affidavit by Northland's Chairman, Ellen Todd, who avers that a
6 subcommittee of Northland established the criterion—the two candidates who received the largest vote
7 totals in the August primary—in the spring of 2008 and informed media outlets of the criterion in May
8 of 2008. She further avers that neither of the two debate participants were promoted or advanced over
9 the other. Although complainant stated that his allegations against Northland were supported by
10 "written statements," these written statements, September 2008 e-mails filed as an attachment to
11 Northland's response, merely state that Northland invited the two candidates with the most votes in the
12 primary.

13 **B. Analysis**
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15 The Act prohibits "any corporation whatever" from making contributions or expenditures in
16 connection with federal elections. 2 U.S.C. § 441b(a). However, 2 U.S.C. § 431(9)(B)(ii) exempts
17 from the definition of "expenditure" "nonpartisan activity designed to encourage individuals to vote or
18 register to vote," which has been construed to exclude "funds provided to defray costs incurred in
19 staging candidate debates in accordance with the provisions of 11 C.F.R. §§ 110.13 and 114.4(f)" from
20 the definition of "contribution" and "expenditure," respectively. See 11 C.F.R. §§ 100.92 and 100.154.
21 Section 110.13(a)(1), in turn, permits "[n]onprofit organizations described in 26 U.S.C. §§ 501(c)(3) or
22 (c)(4) and which do not endorse, support, or oppose, political candidates or political parties" to "stage

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1 candidate debates in accordance with this section and 11 C.F.R. § 114.4(f).¹ The regulation leaves the
2 structure of the debate to the discretion of the staging organization, provided that the debate includes at
3 least two candidates, the organization does not arrange the debates in a manner that promotes or
4 advances one candidate over another, and the criteria for candidate selection are objective and pre-
5 established, under 11 C.F.R. §§ 110.13(b) and (c).²

6 In past "debate" MURs, the Commission has considered a number of different criteria to have
7 been acceptably "objective," including percentage of votes by a candidate received in a previous
8 election; the level of campaign activity by the candidate; his or her fundraising ability and/or standing
9 in the polls; and eligibility for ballot access. See MURs 4956, 4962, and 4963 (Gore 2000, *et al.*);
10 MUR 5395 (Dow Jones, *et al.*); and MUR 5650 (University of Arizona). Cf. *Arkansas Educational*
11 *Television v. Forbes*, 523 U.S. 666, 683 (1998) (in a case involving a First Amendment challenge to
12 state-owned television network's decision on a candidate's exclusion from a televised debate, the
13 Supreme Court observed that "objectivity" is based on a "reasonable, viewpoint neutral exercise of
14 journalistic discretion"). Based on Northland's Response to the complaint, it appears that Northland
15 used pre-established, objective criterion and did not arrange the debates in a manner that promoted or
16 advanced one candidate over another, as required by sections 110.13(b) and (c).

17 Northland, however, a corporate entity, is a tax-exempt business league organized under section
18 501(c)(6), rather than under sections 501(c)(3) or (4), as required by the Commission's debate staging
19 regulation. Accordingly, Northland does not qualify for the safe harbor created by section

¹ Section 114.4(f) allows qualified candidate debate staging organizations to use their own funds to stage debates, and to accept funds from corporations for that purpose.

² In its *Explanation and Justification for Corporate and Labor Activity* at 60 Fed. Reg. 64260 (December 14, 1995), the Commission stated that section 110.13 does not require that candidate selection criteria be reduced to writing or be made available to all candidates. *Id.* at 64262.

110.13(a)(1).

In an analogous situation, the Commission dismissed the matter in an exercise of its prosecutorial discretion. In that matter, MUR 5650 (University of Arizona), a Libertarian candidate filed a complaint with the Commission because he was excluded from a debate sponsored by the University. The University was incorporated, but tax-exempt under 26 U.S.C. § 115 as an "integral part of a government agency," rather than under 26 U.S.C. §§ 501(c)(3) or (c)(4). According to the University, the context of the debate was as follows: "in March 2004, [the Associated Students of the University of Arizona ("ASUA"), a department of the University], decided that its programs for the 2004 Spring and Fall semesters would be united under one theme, coined 'Civic Engagement,'" and that "ASUA's goals included generating as much student interest in its Civic Engagement program as possible." University Response at 3. It asserted that voter registration, education, and voting were the central objectives of the program, and that "[t]he Education component of the Civic Engagement series involved speeches by various political speakers and one debate on campus, which is the debate at issue in this matter." *Id.* The First General Counsel's Report for MUR 5650 stated that, as the University had met all the other criteria for staging debates that would exempt it from section 441b(a) liability, there did not appear to be a good policy reason under the circumstances presented for denying it the benefit of the debate staging regulation based only on its tax status, and therefore recommended that the Commission exercise its prosecutorial discretion and dismiss the matter. MUR 5650 First General Counsel's Report at 7-8.

In extending the debate staging exemption to nonprofit organizations organized under 26 U.S.C. § 501(c)(3) (generally charitable, religious, or educational organizations), the Commission noted that such organizations are prohibited by statute from participating in or intervening in any political campaign on behalf of any candidate for public office. *Explanation and Justification,*

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Funding and Sponsorship of Federal Candidate Debates, 44 Fed. Reg. 76734 (December 27, 1979).

As for extending the exemption to section 501(c)(4) organizations, the Commission noted that, although such organizations are permitted to participate in a political campaign to a limited degree, those that choose to do so would not qualify as ones that do not endorse, support, or oppose political candidates or political parties; thus, they would not be able to stage debates. *Id.* Section 501(c)(6) organizations (business leagues) include chambers of commerce, like Northland, as well as economic development corporations, real estate boards, trade boards, professional football leagues, and other types of business leagues. Chambers of commerce are characterized by a common business interest, which the organization typically promotes. Section 501(c)(6) organizations may engage in limited political activities that inform, educate, and promote their given interest. They may not, however, engage in direct expenditures advocating a vote for a political candidate or cause.

Northland, according to its Response and the accompanying affidavit, states that its primary mission "is to enhance the business community, economic growth and quality of life in the Northland," consisting mainly of Missouri's Platte and Clay counties. Northland Response at 1. The Commission has found no indication that Northland supports, opposes, or endorses candidates or political parties. *See* 11 C.F.R. § 110.13(a)(1). Indeed, Northland's Response, and the attached affidavit of Ms. Todd, specifically deny that Northland does so. Thus, like the University of Arizona in MUR 5650, it appears that Northland has met all the substantive criteria for staging debates that would exempt it from section 441b(a) liability, except for the nature of its tax status. Moreover, part of the relief requested by the complainant—"the immediate intervention of the Commission to declare the debate in violation of the rules of the Commission," and to include the complainant "in the aforesaid debates"—is no longer available. Therefore, the Commission determined that there is no good policy reason for proceeding in this particular case, and has decided to exercise its prosecutorial discretion, dismiss the complaint as to

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- 1 Northland Regional Chamber of Commerce, and close the file as to this respondent. *See Heckler v.*
- 2 *Chaney*, 470 U.S. 821 (1985).

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Saint Joseph Chamber of Commerce

MUR: 6072

I. INTRODUCTION

This matter was generated by a complaint filed with the Federal Election Commission ("Commission") by David R. Browning, the Libertarian nominee for Missouri's 6th Congressional District. See 2 U.S.C. § 437g(a)(1). For the reasons set forth below, the Commission dismissed the complaint's allegations as to Saint Joseph Area Chamber of Commerce ("St. Joseph") and closed the file as to this respondent.

II. DISCUSSION

A. Factual Summary

St. Joseph, a non-profit corporation, scheduled a candidate debate on October 3, 2008, in which the participants invited to attend were the individuals who had won the Democratic and Republican nominations in Missouri's August 5, 2008, primary election for the U.S. House of Representatives in the State's 6th Congressional District. Prior to the scheduled debate, complainant, who had won the Libertarian Party's primary election for Missouri's 6th Congressional District and who was qualified to appear on the general election ballot, alleged in a complaint filed with the Commission that St. Joseph had improperly denied him the opportunity to participate in the debates by failing to use pre-established, objective criteria, and by promoting certain candidates over others, in violation of the Commission's debate staging regulation at 11 C.F.R. § 110.13.

In its response provided prior to its scheduled debate, St. Joseph asserts that its determination to limit participation to the two winning primary candidates was based on pre-established objective criteria, not based solely on party affiliation, and the debate was not structured to promote or advance one candidate over another. Rather, according to St. Joseph, due to the time constraints of a less-than-one-

1 hour debate, it had determined that only those candidates with significant public support would be invited
2 to debate. St. Joseph Response at 1-2. It provided a copy with its response of the then-most recent poll
3 conducted by Survey USA showing that complainant had only a maximum of 6% of the vote in
4 Missouri's 6th Congressional District (in the "other" category). As such, St. Joseph states that it
5 "determined that the objective factors of public interest do not weigh in favor of inviting the complainant
6 to participate in the forum." *Id.* at 2. According to the Survey USA poll, the two debate participants
7 received 48% and 44% of the vote, respectively. Thus, it appears that St. Joseph used pre-established,
8 objective criteria and did not arrange the debates in a manner that promoted or advanced one candidate
9 over another, as required by sections 110.13(b) and (c).

10 **B. Analysis**
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12 The Act prohibits "any corporation whatever" from making contributions or expenditures in
13 connection with federal elections. 2 U.S.C. § 441b(a). However, 2 U.S.C. § 431(9)(B)(ii) exempts from
14 the definition of "expenditure" "nonpartisan activity designed to encourage individuals to vote or register
15 to vote," which has been construed to exclude "funds provided to defray costs incurred in staging
16 candidate debates in accordance with the provisions of 11 C.F.R. §§ 110.13 and 114.4(f)" from the
17 definition of "contribution" and "expenditure," respectively. *See* 11 C.F.R. §§ 100.92 and 100.154.
18 Section 110.13(a)(1), in turn, permits "[n]onprofit organizations described in 26 U.S.C. §§ 501(c)(3) or
19 (c)(4) and which do not endorse, support, or oppose political candidates or political parties" to "stage
20 candidate debates in accordance with this section and 11 C.F.R. § 114.4(f).¹ The regulation leaves the
21 structure of the debate to the discretion of the staging organization, provided that the debate includes at
22 least two candidates, the organization does not arrange the debates in a manner that promotes or advances

¹ Section 114.4(f) allows qualified candidate debate staging organizations to use their own funds to stage debates, and to accept funds from corporations for that purpose.

one candidate over another, and the criteria for candidate selection are objective and pre-established, under 11 C.F.R. §§ 110.13(b) and (c).²

In past "debate" MURs, the Commission has considered a number of different criteria to have been acceptably "objective," including percentage of votes by a candidate received in a previous election; the level of campaign activity by the candidate; his or her fundraising ability and/or standing in the polls; and eligibility for ballot access. See MURs 4956, 4962, and 4963 (Gore 2000, et al.); MUR 5395 (Dow Jones, et al.); and MUR 5650 (University of Arizona). Cf. *Arkansas Educational Television v. Forbes* 523 U.S. 666, 683 (1998) (in a case involving a First Amendment challenge to state-owned television network's decision on a candidate's exclusion from a televised debate, the Supreme Court observed that "objectivity" is based on a "reasonable, viewpoint neutral exercise of journalistic discretion"). Based on St. Joseph's response to the complaint, it appears that St. Joseph used pre-established, objective criteria and did not arrange the debates in a manner that promoted or advanced one candidate over another, as required by sections 110.13(b) and (c).

St. Joseph, however, a corporate entity, is a tax-exempt business league organized under section 501(c)(6), rather than under sections 501(c)(3) or (4), as required by the Commission's debate staging regulation. Accordingly, St. Joseph does not qualify for the safe harbor created by section 110.13(a)(1).

In an analogous situation, the Commission dismissed the matter in an exercise of its prosecutorial discretion. In that matter, MUR 5650 (University of Arizona), a Libertarian candidate filed a complaint with the Commission because he was excluded from a debate sponsored by the University. The University was incorporated, but tax-exempt under 26 U.S.C. § 115 as an "integral part of a government agency," rather than under 26 U.S.C. §§ 501(c)(3) or (c)(4). According to the University, the context of

² In its *Explanation and Justification for Corporate and Labor Activity* at 60 Fed. Reg. 64260 (December 14, 1995), the Commission stated that section 110.13 does not require that candidate selection criteria be reduced to writing or be made available to all candidates. *Id.* at 64262.

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1 the debate was as follows: "in March 2004, [the Associated Students of the University of Arizona
2 ("ASUA"), a department of the University], decided that its programs for the 2004 Spring and Fall
3 semesters would be united under one theme, coined 'Civic Engagement,'" and that "ASUA's goals
4 included generating as much student interest in its Civic Engagement program as possible." University
5 Response at 3. It asserted that voter registration, education, and voting were the central objectives of the
6 program, and that "[t]he Education component of the Civic Engagement series involved speeches by
7 various political speakers and one debate on campus, which is the debate at issue in this matter." *Id.* The
8 First General Counsel's Report for MUR 5650 stated that, as the University had met all the other criteria
9 for staging debates that would exempt it from section 441b(a) liability, there did not appear to be a good
10 policy reason under the circumstances presented for denying it the benefit of the debate staging regulation
11 based only on its tax status, and therefore recommended that the Commission exercise its prosecutorial
12 discretion and dismiss the matter. MUR 5650 First General Counsel's Report at 7-8.

13 In extending the debate staging exemption to nonprofit organizations organized under 26 U.S.C.
14 § 501(c)(3) (generally charitable, religious, or educational organizations), the Commission noted that such
15 organizations are prohibited by statute from participating in or intervening in any political campaign on
16 behalf of any candidate for public office. *Explanation and Justification, Funding and Sponsorship of*
17 *Federal Candidate Debates*, 44 Fed. Reg. 76734 (December 27, 1979). As for extending the exemption
18 to section 501(c)(4) organizations, the Commission noted that, although such organizations are permitted
19 to participate in a political campaign to a limited degree, those that choose to do so would not qualify as
20 ones that do not endorse, support, or oppose political candidates or political parties; thus, they would not
21 be able to stage debates. *Id.* Section 501(c)(6) organizations (business leagues) include chambers of
22 commerce, like Northland, as well as economic development corporations, real estate boards, trade
23 boards, professional football leagues, and other types of business leagues. Chambers of commerce are

1 characterized by a common business interest, which the organization typically promotes. Section
2 501(c)(6) organizations may engage in limited political activities that inform, educate, and promote their
3 given interest. They may not, however, engage in direct expenditures advocating a vote for a political
4 candidate or cause.

5 According to its website, St. Joseph's stated mission is "to create an environment that allows
6 business to succeed and the community to prosper." See www.saintjoseph.com. The Commission has
7 found no indication that St. Joseph supports, opposes, or endorses candidates or political parties. See
8 11 C.F.R. § 110.13(a)(1). Indeed, on its website, its President states:

9 Chambers of Commerce don't endorse political candidates or take partisan sides
10 at any level of government. We do, however, pursue business-related issues and
11 disseminate information regarding each candidate's views and platform as they
12 relate to (or impact) the business sector and the local economy. *Id.*
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14 Thus, like the University of Arizona in MUR 5650, it appears that St. Joseph has met all the
15 substantive criteria for staging debates that would exempt it from section 441b(a) liability, except for the
16 nature of its tax status. Moreover, part of the relief requested by the complainant—"the immediate
17 intervention of the Commission to declare the debate in violation of the rules of the Commission," and to
18 include the complainant "in the aforesaid debates"—is no longer available. Therefore, the Commission
19 has determined that there is no good policy reason for proceeding in this particular case, and has decided
20 to exercise its prosecutorial discretion, dismiss the complaint as to the St. Joseph Area Chamber of
21 Commerce, and close the file as to this respondent. See *Heckler v. Chaney*, 470 U.S. 821 (1985).

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: NPG Newspapers, Inc.

MUR: 6072

I. INTRODUCTION

This matter was generated by a complaint filed with the Federal Election Commission ("Commission") by David R. Browning, the Libertarian nominee for Missouri's 6th Congressional District. See 2 U.S.C. § 437g(a)(1). For the reasons set forth below, the Commission found no reason to believe that NPG Newspapers, Inc. ("NPG") violated the Federal Election Campaign Act of 1971, as amended ("the Act"), or the Commission's regulations, and closed the file as to this respondent.

II. DISCUSSION

A. Factual Summary

NPG operates St. Joseph's News Press, a daily newspaper distributed in St. Joseph, Missouri. See NPG Response at 2. NPG and Missouri Western State University ("Missouri Western") planned to co-sponsor a candidate debate on October 16, 2008, and, when Missouri Western chose not to participate, NPG held the debate on its own. The participants invited to attend were the individuals who had won the Democratic and Republican nominations in Missouri's August 5, 2008, primary election for the U.S. House of Representatives in the State's 6th Congressional District.

Prior to the debate, complainant, who had won the Libertarian Party's primary election for Missouri's 6th Congressional District and who was qualified to appear on the general election ballot, alleged in a complaint filed with the Commission that NPG had improperly denied him the opportunity to participate in the debates by failing to use pre-established, objective criteria, and by promoting certain candidates over others, in violation of the Commission's debate staging regulation at 11 C.F.R. § 110.13.

According to NPG's Response, submitted prior to its scheduled debate, it complied with the Commission's debate staging criteria at 11 C.F.R. §§ 110.13(b) and (c) by including at least two candidates and not promoting one of them over the other, and by selecting debate participants based on pre-established,

1 objective criteria. *Id.* at 3. Attached to NPG's Response is an affidavit by Ken Newton, an employee of
2 NPG, which avers that he selected the two debate participants based solely on pre-established objective
3 criteria, including an examination of each candidate's financial support, popular support, historical data, and
4 expenditures of time, money, and effort. Newton Affidavit at 1. Specifically, the Newton Affidavit states
5 that, based on those factors, complainant raised only \$3,300, while the Democratic and Republic candidates
6 raised in excess of \$1.8 million, and that election polls reflected that complainant's popular support was no
7 greater than 4%.

8 In addition, according to Newton, the historical data from general elections in 2002, 2004, and 2006
9 reflected that Libertarian candidates had garnered no more than an average 1.7% of the vote in the District
10 race. *Id.* at 1-2. Newton also notes that neither he nor NPG received any press releases from complainant's
11 campaign discussing its campaign positions, but had received press releases from the Democratic and
12 Republican candidates, and that he was unaware of any public appearances by the complainant in St. Joseph,
13 Missouri, until September 14, 2008, when complainant spoke at a picnic attended by approximately ten
14 people. *Id.* at 2.

15 B. Analysis

16 The Act prohibits "any corporation whatever" from making contributions or expenditures in
17 connection with federal elections. 2 U.S.C. § 441b(a). However, the Commission's regulations provide that
18 "[b]roadcasters (including a cable television operator, programmer, or producer), *bona fide* newspapers,
19 magazines and other periodical publications may stage candidate debates in accordance with [section 110.13]
20 and 11 C.F.R. § 114.4(f), provided they are not owned by or controlled by a political party, political
21 committee or candidate." 11 C.F.R. § 110.13(a)(2). In its Response, NPG states that it is not controlled by
22

1 any candidate, political party or political committee. NPG Response at 2.¹ As such, NPG is covered by
2 section 110.13(a)(2) to the extent that it complied with the rules in sections 110.113(b) and (c), which require
3 that debate staging organizations include at least two candidates, do not favor one over the other, and use pre-
4 established, objective criteria to select participants. It appears that NPG complied with the applicable rules,
5 including using reasonably objective criteria to select its debate participants. See MURs 5395 (Dow Jones)
6 and 4956, 5962, and 4963 (Gore 2000).

7 Therefore, the Commission found no reason to believe that NPG Newspapers, Inc. violated the
8 Federal Election Campaign Act of 1971, as amended, or the Commission's regulations, and closed the file as
9 to this respondent.

¹ NPG is a division of News-Press and Gazette Company, which has holdings in newspapers, cable, and broadcast television stations. <http://npg-inc.com>.

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FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Missouri Western State University

MUR: 6072

I. INTRODUCTION

This matter was generated by a complaint filed with the Federal Election Commission ("Commission") by David R. Browning, the Libertarian nominee for Missouri's 6th Congressional District. See 2 U.S.C. § 437g(a)(1). For the reasons set forth below, the Commission found no reason to believe that Missouri Western State University ("Missouri Western") violated the Federal Election Campaign Act of 1971, as amended ("the Act"), or the Commission's regulations, and closed the file as to this respondent.

II. DISCUSSION

Missouri Western planned to co-sponsor a candidate debate on October 16, 2008. The participants invited to attend were the individuals who had won the Democratic and Republican nominations in Missouri's August 5, 2008, primary election for the U.S. House of Representatives in the State's 6th Congressional District.

Prior to the debate, complainant, who had won the Libertarian Party's primary election for Missouri's 6th Congressional District and who was qualified to appear on the general election ballot, alleged in a complaint filed with the Commission that Missouri Western had improperly denied him the opportunity to participate in the debates by failing to use pre-established, objective criteria, and by promoting certain candidates over others, in violation of the Commission's debate staging regulation at 11 C.F.R. § 110.13.

In its response submitted before the scheduled debate, Missouri Western states that it had initially agreed to co-sponsor the October 16, 2008, debate, but withdrew after being contacted by complainant. Missouri Western Response at 1. Complainant "asserted that as a candidate of a valid party legally on the ballot, he should be allowed to participate in the debate." *Id.* After discussions among the University president, his staff and outside counsel, Missouri Western advised that it would not co-sponsor the debate

1 unless all qualified candidates who were on the ballot were allowed to participate. *Id.* at 1-2. Missouri
2 Western told the co-sponsor it could still use its facilities as the sole sponsor of the debate, provided that it
3 paid the normal rental fee for the space. *Id.*

4 After Missouri Western's outside general counsel advised the complainant it would not co-sponsor
5 the debate without his participation, complainant orally stated that he would withdraw his complaint against
6 Missouri Western. *Id.* at 2. Missouri Western attached to its response an e-mail dated September 11, 2008,
7 from complainant, thanking the University for its attention to the problem, and stating "I consider this matter
8 settled and will withdraw my complaint against the University." Although the complainant has not formally
9 sought to withdraw his complaint, Missouri Western did not sponsor the debate, which was the subject of the
10 complaint against it. Accordingly, the Commission found no reason to believe that Missouri Western State
11 University violated the Federal Election Campaign Act of 1971, as amended, or the Commission's
12 regulations, and closed the file as to this respondent.

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